

REMARKS

Original claims 3, 21-22, and 4-20 (in part) have been cancelled as drawn to non-elected inventions. Original claims 1, 2, and 4-20 (in part) have been cancelled and new claims 23-32 provided in response to the restriction requirement. Cancellation of the claims does not affect inventorship. Support for new claims 23-32 derives from the specification and claims as originally filed. Accordingly, the amendments do not present new matter and entry is proper.

Restriction Requirement

The Examiner requires Applicants to elect one of the following groups of inventions:

- I. Claims 1, and claims 4-20 (in part), drawn to method of generating polypeptide with increased immunogenicity, classified in class 702, subclass 19;
- II. Claims 2, and claims 4-20 (in part), drawn to method of generating polypeptide with decreased immunogenicity, classified in class 702, subclass 19;
- III. Claims 3, 22 and claims 4-20 (in part) drawn to method for eliciting immune response in a patient.
- IV. Claim 21, drawn to a modified polypeptide, classified in class 530, subclass 300+.

Applicants elect Group II, drawn to a method of generating polypeptides with decreased immunogenicity *with traverse*.

Applicants respectfully traverse the Examiner's Restriction Requirement for the following reasons. First, it is Applicants position that the search and examination of

Groups I and II can be made without serious burden. Second, Applicants submit that claims 1 and 2, classified as inventions I and II respectively, are connected in design, operation or effect.

Under M.P.E.P. §803, "if the search and examination of an entire application can be made without serious burden, the examiner *must* examine it on the merits, even though it includes claims to independent or distinct inventions "(emphasis added). In addition, M.P.E.P. §808.02 states "where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among related inventions."

Original claims 1 and 2 and new claims 23 and 24 are directed to methods of screening for altered immunogenicity, thus the field of search should be the same. This is supported by the fact that the classification for inventions I and II is the same, i.e., class 702, subclass 19. Finally, the Examiner has not provided any clear indication of separate future classification and field of search. Accordingly, Applicants respectfully submit that the search and examination of these two groups of claims (e.g., I and II) can be made without serious burden.

In addition, the Examiner states that inventions I and II are not connected in design, operation or effect. The Applicants respectfully disagree, and note that the new claims 23 and 24, as well as original claims 1 and 2, are directed to screening for altered immunogenicity, and thus, are clearly connected in design, operation and effect.

Accordingly, Applicants respectfully request that the Examiner examine claims 23 and 24 together on the merits.

Species Election

Applicant is required to elect a single disclosed species of each for:

- A) For Groups I-III, way of applying algorithm, before or after filter (as in claims 4,5);
- B) For Groups I-III, type of immunogenic sequence (as in claim 13);
- C) For Groups I-III, elect whether immunogenic sequences are the same or different (as in claims 11, 12); and
- D) For Group III, type of variant protein.

Applicants respectfully submit that the election required under A) has been made moot by cancellation of claims 4 and 5. Moreover, Applicants submit that this election does not apply to new claims 23-32 because as disclosed in independent claims 23 and 24, the algorithm and filter can be applied in any order.

Similarly, Applicants respectfully submit that the election required under C) has been made moot by the cancellation of claims 11 and 12. Moreover, Applicants submit that this election does not apply to new claims 23-32 because new claims 23-32 do not disclose this embodiment.

As Applicants have not elected Group III, no election is required under D).

Regarding the election required under B), Applicants elect sequences that bind to T cell epitopes. This election is made *with traverse*.

Applicants respectfully traverse this requirement as applied to new claims 23 and 24 and note that the requirement is moot as applied to original claim 13.

New claims 23 and 24 disclose a Markush group with five members. Under M.P.E.P. § 803.02, "if the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the Markush



group in the claim on the merits, even though they are directed to independent and distinct inventions." Applicants respectfully submit that examination of 5 species should not place a serious burden on the Examiner and respectfully request withdrawal of the election requirement as applied to the type of immunogenic sequence.

Please direct further questions in connection with this Application to the undersigned at (415) 781-1989.

Respectfully submitted,

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Dated: 3/24/04

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Filed under 37 C.F.R. § 1.34(a)

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